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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/774,577	02/09/2004	Jennifer A. Coggan	8650.027 US	9765
30827	7590	07/27/2006		
MCKENNA LONG & ALDRIDGE LLP 1900 K STREET, NW WASHINGTON, DC 20006			EXAMINER GARRETT, DAWN L	
			ART UNIT	PAPER NUMBER

1774

DATE MAILED: 07/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/774,577	<b>Applicant(s)</b> COGGAN ET AL.	
	<b>Examiner</b> Dawn Garrett	<b>Art Unit</b> 1774	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 12 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) 1-7, 10, 11 and 13-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8, 9 and 12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2-9-04</u> . | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. This Office action is responsive to the response to the election of species requirement received July 12, 2006.

Applicant elected the following species with traverse:

Formula (IV) where R1, R2, R3, and R4 are hydrogen, R5 and R6 are aryl or substituted aryl with about 6 to about 30 carbon atoms, and R7 and R8 are alkyl of from 1 to about 25 carbon atoms.

Applicant appears to argue that the species are not patentably distinct. If such is the case, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this was intended, and the election requirement will be withdrawn. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

2. The examiner has found the elected species in an electroluminescent device to be allowable subject matter. Accordingly, the examiner has selected the next species for consideration. The next species under consideration is the following:

Formula (IV) where R1, R4, R7 and R8 are hydrogen, R5 and R6 are heteroaryl or substituted heteroaryl of from 5 to 24 carbon atoms, R2 and R3 are alkyl groups of from 1 to 25 carbon atoms.

Claims 8, 9, and 12 read upon the species under consideration. (Note: Claim 8 is included as Formula (II) reads upon the elected species where R5 and R6 are heteroaryl of from 5 to 24 carbon atoms and R2 and R3 are of Formula (II) are alkyl of from 1 to about 25 carbon

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atoms and R1 and R4 are hydrogen atoms. It is noted that Formula (I) does not read upon either the species elected by applicant or the species selected by the examiner now under consideration, because the formula only has one substituent on each of the naphthyl rings connected by the linking bond (i.e. substituents R2 and R3). Also, formula (III) does not read upon the elected species.

Claims 1-7, 10, 11, and 13-16 are currently withdrawn as non-elected species.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 8, 9 and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 8 and 12 use the terminology "and the like" (it is noted that the other independent claims not currently under consideration also use this terminology). The phrase "and the like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "and the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

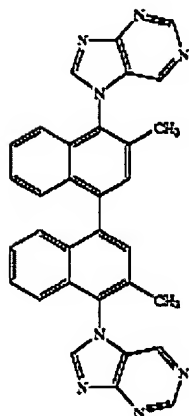
(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who

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has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

6. Claims 8, 9 and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by Kimura (US 6,780,529). Kimura discloses light emitting devices comprising a pair of electrodes and one or more organic layers disposed therebetween and one of the layers comprises a compound according to Formula (I) shown in the abstract (see the description of Formula I, col. 7-20). Formula E-45 according to Formula (I) shown at col. 34 is one example of a Kimura Formula I compound that anticipates the binaphthyl species under consideration.

(E-45)



With regard to claim 9, the pyridyl group of the heterocyclic substituent group of Kimura Formula I may be bonded to the linking group (binaphthyl group).


### *Conclusion*

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dawn Garrett whose telephone number is (571) 272-1523. The examiner can normally be reached Monday through Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached at (571) 272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Dawn Garrett  
Primary Examiner  
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